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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,496	03/11/2004	Michael Kwiecien	00216-618001	6314

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EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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01/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/798,496	Applicant(s) KWIECIEN, MICHAEL	
	Examiner Ghassem Alie	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,11,13-26,28-32 and 37-46 is/are pending in the application.
- 4a) Of the above claim(s) 11,17,23 and 37-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 13-16, 18-22, 24-26, and 28-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/26/07 has been entered, wherein claims 1, 3, 4-7, 13-16, 18-22, 24-26, 28-29, and 31-32 are pending; claims 21 and 29 are amended; claims 8-10, 12, and 33-36 are cancelled; and claims 11, 17, 23, and 37-46 are withdrawn.

Claim Objections

2. Claim 11 is objected to because of the following informalities: claim 11 depends from claim 9 which has been cancelled. Therefore, claim 11 should also be cancelled. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-7, 13-16, 18-22, 24-26, 28-29, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng et al. (5,956,848), hereinafter Tseng, in view of Wdowik (5,756,081). Regarding claim 1, Tseng teaches a wet shaving system 10 including a skin engagement portion including a shaving aid composite 14. Tseng also teaches a shaving

aid matrix 46 including a water-insoluble polymer and a shaving aid. See col. 3, lines 8-15. It should be noted that Tseng teaches that the portions 44, 46, and 48 of the shaving aid composite contains a water insoluble polymer. Tseng does not explicitly teach that the shaving aid matrix 46 includes a plurality of exfoliating elements having abrasive particles. However, Wdowik teaches a plurality of exfoliating elements which are used with a shaving aid composite which could be in a solid form. See col. 2, lines 55-61 and col. 3, lines 22-60 in Wdowik. Wdowik also teaches that the exfoliating elements have abrasive particles. See col. 3, lines 54-60 in Wdowik. It should be noted that the shaving aid composite in Tseng is solid, and Wdowik teaches that the exfoliating elements with particles can be used in a solid shaving composite. It should be noted that the shaving aid matrix of the razors also is considered to be a solid shaving composition. Therefore, it would have been obvious to a person of ordinary skill in the art to provide Tseng's shaving aid matrix with a plurality of exfoliating elements, as taught by Wdowik, in order to enhance exfoliation of the deed skin and removal of grease and oils.

Regarding claims 3-4 and 13-14, Tseng teaches everything noted above including that the polymer comprises of a water-insoluble polymer which could be polyethylene. Tseng also teaches that the shaving aid could have a colorant. See col. 3, lines 16-37 in Tseng. Tseng also teaches that the shaving aid includes polyethylene oxide and vitamin E. See col. 3, lines 37-65 in Tseng.

Regarding claim 5, Tseng, as modified by Wdowik, teaches everything noted above including a first section that is considered to be shaving aid matrix 46 and a second section

44, 48 having a second polymer. Tseng also teaches that the first section or second section further includes a shaving aid.

Regarding claims 6-7, Tseng, as modified by Wdowik, teaches that the exfoliating elements include polymer and mineral oil. It should be noted that the abrasive particles in Wdowik could be polymeric particles. See col. 3, lines 55-60. It should be noted that the use of other abrasive elements or exfoliating elements are well known in the art such as taught by Ruben (6,461,599). See col. 2, lines 35-50 in Ruben.

Regarding claim 15, Tseng, as modified by Wdowik, teaches everything noted above, including that the exfoliating elements comprises a colorant. It should be noted when the polymer or the shaving aid includes a colorant the exfoliating elements which are embedded into the polymer also naturally include a colorant. In addition, Wexler et al. (6,295,733) teaches elements 21 that are embedded into a polymer include a colorant.

Regarding claims 16, 18-22, 24-26, 28-29, and 31-32, Tseng, as modified by Wdowik, teaches all the limitation set forth in those claims. It should be noted that Tseng teaches that one of the sections includes a water-insoluble polymer, both sections comprise of a shaving aid, the first section is on the top of the second section, the first section and second section also could be different color as being formed from a different material, at least one of the first section or the second section includes a colorant, and the shaving aid and the exfoliating element are disposed in a single layer.

Response to Arguments

5. Applicant's arguments that an artisan would not have had a reasonable expectation of success in adding an ingredient intended for use in a shaving composition to a solid shaving

composite is not persuasive. Wdowik discloses, "The present invention is not limited to any single shaving composition, but rather to the concept of the inclusion of suitable particulate additives to any shaving composition, regardless of its form before or after it is applied, that is solid, gel, cream, liquid or aerosol." See col. 4, lines 56-60 in Wdowik. Wdowik teaches that the shaving composition could be in a solid form. Therefore, it would have been obvious to a person of ordinary skill in the art to provide the ingredients of a solid shaving composition, as taught by Wdowik, to another solid shaving composition, as taught by Tseng, since both shaving compositions used as a shaving aid in the personal shaving process by a razor assembly.

It should be taken under consideration that the shaving composite portions 44, 46, and 48 in Tseng includes a shaving aid matrix that has different substances which may have to some degree roughness or abrasiveness that could be considered as "exfoliating elements." The independent claims do not even recite specific particles that could be considered as "exfoliating elements" or "abrasive particles." It should be noted that any substance within the shaving matrix or shaving aid has some degree of abrasiveness or roughness that contains elements with exfoliating characteristics. In other words, independent claims broadly recite "a plurality of exfoliating elements comprising abrasive particles." Any substance within the shaving matrix has some degree of roughness and includes abrasive particles. However, Examiner has considered the abrasive particles recited in the independent claims as the abrasive particle set forth in claim 7. Therefore, Tseng has been combined with Wdowik in rejection of the claims including the independent claims. Nevertheless, independent claims, which are many, very broadly claim abrasive particles in the shaving matrix. As stated above,

any shaving matrix has some degree of roughness and the elements within the shaving matrix could be considered as abrasive particles.

Applicants' argument that Wdowik provides no teaching or suggestion to a skilled artisan to incorporate a solid exfoliating composition into a single shaving unit is not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wdowik teaches that the shaving composition can be in the form of a solid shaving composition and include abrasive particles. Therefore, Wdowik teaches a solid exfoliating composition as a shaving aid. Tseng teaches that the shaving aid could be placed into a single shaving unit. Therefore, it is within the knowledge of a person of ordinary skill in the art to provide Tseng's shaving composition with the elements in Wdowik's shaving composition, since both shaving compositions are solid and used to facilitate the personal shaving process. It is within the knowledge of a person of ordinary skill in the art to provide a solid soap with one of the substances used in a composition of another solid soap.

Applicant's argument that Wdowik or Tseng teaches that abrasive particle containing compositions could be formulated to be stabilized within a solid from which is included into a shaving razor is not persuasive. As stated above, Tseng teaches that the shaving aid could

be placed into a single shaving unit. Wdowik teaches that the shaving composition can be in the form of a solid shaving composition and include abrasive particles. Therefore, it is within the knowledge of a person of ordinary skill in the art to provide Tseng's shaving composition with the elements in Wdowik's shaving composition in order to enhance the shaving aid in Tseng and facilitated shaving by the shaving razor.

Applicant's argument that the shaving composition in Wdowik needs merely to be contacted with the skin without wetting of the skin is not persuasive. Firstly, claims do not call for wetting the skin prior or during shaving. Secondly, the Wdowik's shaving composition can be used with or without wetting the skin. Thirdly, Wdowik teaches that the shaving composition could be in a solid form. Therefore, it could be used in a wet shaving system, as taught by Tseng.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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Ghassem Alie
Patent Examiner
Art Unit 3724

GA

January 21, 2008